

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 UBALDO SALDANA-GARCIA,

4 Petitioner,

5 v.

6 BRIAN WILLIAMS, et al.,

7 Respondents.

Case No.: 2:19-cv-00441-APG-BNW

ORDER

8 This habeas matter under 28 U.S.C. § 2254 comes before me for initial review under Rule
9 4 of the Rules Governing Section 2254 Cases and for consideration of petitioner's application for
10 leave to proceed *in forma pauperis* (ECF No. 1) and his motion for appointment of counsel (ECF
11 No. 2).

12 The petitioner is unable to pay the filing fee. Accordingly, the application for leave to
13 proceed *in forma pauperis* will be granted.

14 Appointment of counsel in this case further the interests of justice given the petitioner's
15 English language limitations and his lengthy sentence of 35 years to life. The petitioner's motion
16 for appointment of counsel will therefore be granted, and counsel will be appointed to represent
17 him in these proceedings.

18 IT THEREFORE IS ORDERED that the petitioner's application to proceed *in forma*
19 *pauperis* (ECF No. 1) is GRANTED. The petitioner will not be required to pay the filing fee.

20 IT IS FURTHER ORDERED that the petitioner's motion for appointment of counsel (ECF
21 No. 2) is GRANTED.

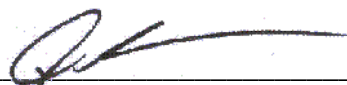
22 IT FURTHER IS ORDERED that the Federal Public Defender shall be provisionally
23 appointed as counsel and shall have 30 days to undertake direct representation of the petitioner or
to indicate the office's inability to represent him in these proceedings. If the Federal Public
Defender is unable to represent the petitioner, I will appoint alternate counsel. The counsel

1 appointed will represent the petitioner in all federal proceedings related to this matter, including
2 any appeals or certiorari proceedings, unless allowed to withdraw. A deadline for the filing of an
3 amended petition and/or seeking other relief will be set after counsel has entered an appearance. I
4 anticipate setting the deadline for approximately 90 days from entry of the formal order of
5 appointment. Any deadline established and/or any extension thereof will not signify any implied
6 finding of a basis for tolling during the time period established. The petitioner at all times remains
7 responsible for calculating the running of the federal limitation period and timely presenting
8 claims. That is, by setting a deadline to amend the petition and/or by granting any extension
9 thereof, I make no finding or representation that the petition, any amendments thereto, and/or any
10 claims contained therein are not subject to dismissal as untimely. *See Sossa v. Diaz*, 729 F.3d 1225,
11 1235 (9th Cir. 2013).

12 IT FURTHER IS ORDERED, so that the respondents may be electronically served with
13 any papers filed through counsel, that the Clerk shall add state attorney general Aaron D. Ford as
14 counsel for the respondents and shall make informal electronic service of this order upon the
15 respondents by directing a notice of electronic filing to him. The respondents' counsel shall enter
16 a notice of appearance within 21 days of entry of this order, but no further response shall be
17 required from the respondents until further order of the Court.

18 The Clerk of Court shall send a copy of this order to the *pro se* petitioner, the Nevada
19 Attorney General, the Federal Public Defender, and the CJA Coordinator for this division.

20 Dated: May 10, 2019.

21 
22 _____
23 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE